

1 THE HONORABLE JOHN C. COUGHENOUR
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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 CLAY VINSON HAYNES,

11 Plaintiff,

v.

12 MICK, *et al.*,

13 Defendants.

14 CASE NO. C22-5688-JCC

ORDER

15 This matter comes before the Court on Plaintiff's motion for relief from judgment (Dkt.
16 No. 55.)¹ Having thoroughly considered the parties' briefing and the relevant record, the Court
17 DENIES the motion for the reasons explained herein.

18 Plaintiff sued several state employees, asserting a 42 U.S.C. § 1983 claim based on
19 alleged violations of his Eighth Amendment rights. (*See* Dkt. No. 4 at 4–11.)² The Court
20 dismissed Plaintiff's complaint without prejudice and, more recently, denied his motion to
21 amend the judgment. (*See* Dkt. Nos. 47, 54.) In both instances, the Court based its decision on

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23 ¹ Plaintiff also moves to extend his time to reply to Defendants' opposition to the instant motion.
24 (Dkt. No. 60.) But before the Court could rule on that request, Plaintiff submitted his reply (Dkt.
25 No. 62). Because the Court considered Plaintiff's reply in ruling on the instant motion, the
motion for an extension (Dkt. No. 60) is moot.

26 ² The Court described the factual details of this case in a previous order and will not repeat them
here. (*See* Dkt. Nos. 43, 47.)

1 Plaintiff's failure to exhaust his administrative remedies. (*See id.*) Plaintiff now asks the Court to
 2 grant relief from its judgment pursuant to Federal Rule of Civil Procedure 60(b). (Dkt. No. 55.)
 3 He asserts that newly discovered evidence necessitates such relief. (*See id.*)

4 A court may relieve a party from a final judgment when there is newly discovered
 5 evidence that could not have been discovered in time to move for a new trial. Fed. R. Civ. P.
 6 60(b)(2).³ To obtain such relief, the movant must show the evidence (1) existed at the time of the
 7 trial, (2) could not have been discovered through due diligence, and (3) was "of such magnitude
 8 that production of it earlier would have been likely to change the disposition of the case." *Jones*
 9 *v. Aero/Chem Corp.*, 921 F.2d 875, 878 (9th Cir. 1990) (citing *Coastal Transfer Co. v. Toyota*
 10 *Motor Sales, U.S.A.*, 833 F.2d 208, 211 (9th Cir. 1987)).

11 Here, Plaintiff's "newly discovered evidence" consists of resolution requests he
 12 submitted, as well as the Department of Corrections' responses explaining that the requests were
 13 untimely. (*See* Dkt. No. 55 at 10–15.) Again, Plaintiff fails to show that he timely exhausted his
 14 administrative remedies, let alone that this evidence would have likely "change[d] the disposition
 15 of the case." *See Jones*, 921 F.2d at 878. Instead, he provides more indications that he did not
 16 properly appeal his resolution request when it was originally resolved.

17 For the foregoing reasons, Plaintiff's motion for relief from judgment (Dkt. No. 55) is
 18 DENIED.

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23 ³ Courts disagree as to whether Rule 60(b)(2) even applies where there has been no trial—such
 24 as after summary judgment. *Compare Watts v. Allstate Indem. Co.*, 2012 WL 1108823 (E.D. Cal.
 25 2012) (considering a Rule 60(b)(2) motion where no trial occurred), with *Flett v. W.A. Alexander*
 26 & Co.

26 & Co.

302 F.2d 321, 324 (7th Cir. 1962) (expressing "grave doubts" about the applicability of
 Rule 60(b)(2) where there had been no trial and no evidence presented). But even assuming Rule
 60(b)(2) can apply at this stage, Plaintiff's motion fails on the merits for the reasons explained
 below.

1 DATED this 1st day of December 2023.
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7 John C. Coughenour
8 UNITED STATES DISTRICT JUDGE
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